App. F. IX-4

192 / . (Legis)

File No. 46.20

Serial Nos. 1–2

Previous References

A.R. 64-173.
R.M. 247-1903

Later References

PRESERVED

32

General and Revenue Secretariat.

Serial Nos. 2

Part B for January 1929

SUBJECT

Opening of Mission Hospital at Madras
Govt. of Madras' Order thereon.

R.I. Gupta
5/1/29

F.E.C.

G. R. S. 11] 191 .

GENERAL AND REVENUE SECRETARIAT.

Legn')

NOTES.

File No.

FILE HEADING.

Question of introducing the Madras Court of Wards Act in Mysore

From

No.	Dated	Received
Diary No.	Enclos. Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

NOTES—First Sheet.

DEWAN'S OFFICE
Date of Receipt 22/7/20
Petn. Regr. No Pl. 139

Kathiawar Rajkot
23/7/20

HIGH COURT, BOMBAY

1485

Dear Sir,

From recent experience, I gather that as in British India, the Policy of Govt. is to preserve and conserve the big estate-owners. Legislation 46.20-1

On that basis, will you kindly suggest to the Dewan Saheb the necessity of enacting the Court of Wards Act in Rajkot. It has long been in force in Madras, and should we not have one, so that men in my position who are unable to manage their big estates may take the benefits of that Act as in British India. I hope the idea

---

Mr. Asst. Secy. to Govt.

Bombay
23/7/20

Submitted with a draft acknowledging. After issue reference if any, will be traced and put up.

The Madras Act of 1904 has been amended by many subsequent Acts. Of approved 6 copies of the Act

with the latest amendments
will be got for ready
reference. Drafts to
be put in separately.
Madras rules etc.
for approval

GG
31/7. Mark down to-day
D. M.
31/7
31/7. 1918

Issued No. G. 3298 dt 13-8-20

2 This may be sent to
the Library Section
for ordering for six
copies of the Madras
Court of Wards Act
with the latest amend-
ments.
GG/1918

To the Library for taking
necessary action
1918

Forms

Action taken separately.
GG
13.8.20

3 The Court of Wards Act
does not appear to have
come up as any time

G. R. S. III-21

1485

General and Revenue Secretariat.	File No.	of 19 .

Serial No.

for Consideration.

Submitted for orders. A copy of the Madras Act I of 1902 is put up.

Bm 22/9

2. Please put up the discussion in the L. C. together with the Sch: of Dist Bds.

D. M. 1/10

N.Y. 1/10

X

5. The volume of the Fort St George Gazette containing the discussion, the Bill as amended by the Select Committee side by side with the original Bill & the Report of the select Committee is herewith put up & bound.

Y W

Bm 13/10.

The Gazette Contg the original Bill & the Statute Ord could not be got.

Apr 15/10

NOTE—Contn. sheet.

Serial No.

6. Kind attention invited to the discussion at the Madras Legislative Council in connection with the Madras Local Boards Act of 1920, which is printed in the Fort St. George Gazette of 8th April 1920 at pages 46 to 132. The enactment led to a storm of adverse criticism, and the opposition in the L.C. was led by such eminent men as Mr. Cardew Norton & the late Mr. Jamboolingam Mudaliar & others.

The Madras Act aims at the preservation of the ancient Zamindars & the landed aristocracy of the Madras Presidency.

In Mysore the conditions are quite different. We have no such class of landed aristocracy who require such special protection at the hands of the Govt.

The following may be said to be some of the objectionable features of the above enactment :—

(1) It allows civil rights to be interfered with by means of executive orders of Govt.;

(2) It unsettles legal rights arising out of contracts; and

NOTE—Contn. sheet.

Serial No.

Re S. 48 of the Act

③ As bears the jurisdiction of civil courts in the matter of the executive acts of Govt & the Court of Wards again, it is only where the interests of a large number of people or class of people require special protection that legislation is resorted to. In individual cases, a man has perhaps to submit to misfortunes brought on by himself & it does not seem to be proper to ask the State to introduce special legislation to afford protection in such cases.

In Mysore, no inconvenience has been caused to any one by the absence of such an enactment, and if legislation is to be resorted to with a view to protect grown up persons from the consequences of mistakes or errors of judgment it may be a new departure in legislation which is perhaps desirable to be avoided.

No action seems to be called for on the reps in question & the Sections with may perhaps be deposited.

Respectfully 31-5-21 Submitted for orders
2nd Member

NOTE—Contn. sheet.

69/10
1.6.21

M. D. M.
Pl/30/5.

Serial No.

6910
1.6.21.

12 — 2 vols like this forwarded with the previous file of the Secretary.

Illegible
20/6.

13 To the Revenue Secretary with Compliments

Illegible
20/6

14. The points for consideration are whether the arrangement now existing in the State for the management of private estates by Govt officers is inadequate and whether it is necessary to establish a Court of Wards as in Madras.

The estates here may be classified into —

(a) Jaghirs and
(b) Alienated villages.

Mere are only a few of the former class viz. Yelandur, Sriniwas, Sir Samudram and Mahadeshwar —

The first (Yelandur) is governed by a Special Regulation. It is declared inalienable & impartible. Govt have

NOTE—Contn. sheet.

Serial No.

powers to assume its management whenever necessary. It was under such management in the past. The Service is purely a Devadaya Inam subject to the control of Govt in the Muzarai Dept. It is also inalienable. Its management may also be assumed by Govt in the interests of the institution whenever such a step is deemed expedient. The other two are no more than ordinary alienated villages, though each Jagir consists of more than one village. They are governed by the same rules as other Inam Estates.

16. The Estates of the (b) class belong either to (1) Palace, (2) or religious & charitable institutions, or (3) to individuals.

17. The Land Rev Code + and the Standing orders provide for such estates being taken under Govt management as noted below: —

(1) Estates belonging to the Palace are now under the management of Govt. or of the Palace, & in either case the Officers managing the estates can exercise all the powers conferred on a Dy Collector by the

+ S.S. 120, 150, & 166 of the L.R. Code & Para 428 of the Rev Manual —

NOTE—Contn. sheet.

Serial No.

L. R. Code in respect of enabenated land: (vide S. 120(2).)

(2) Estates endowed to religious and charitable institutions, are Devadaya Dhanus. They are also taken under the ~~Direct Management~~ Control of Govt in the Mugaroi Dept for the benefit of the institutions concerned. So, no Special arrangement for the protection of these Estates on behalf of the institutions, is necessary.

(3.) Estates belonging to private individuals can be taken under the management of Govt in the following cases:—

(i) When the revenue due to Govt on such Estates falls into arrears & when it is considered inexpedient to recover the same by the adoption of the Summary processes prescribed in the L. R. Code. (Section 166 of the L. R. Code.)

(ii) When owing to disputes among the Sharers or for other cause, there is reason to apprehend that the land revenue payable in respect

NOTE—Contn. sheet.

Serial No.

of an entire village or of a share of a village, will not be paid as it falls due; (S. 150 of the L.R.C.)

(iii) When villages are taken as security for loans granted by Govt. to Inamdars either for discharging existing debts, or for improvement of villages under the L.I. Loans Regulation or for other purpose.

(vide Para 428 of the Revenue)

(iv) When the holders of Inam villages apply for their villages being taken under Govt. management for improving their administration.

Powers -

The powers which can be exercised by Revenue officers in the management of these private Estates, are not very clearly defined. The authorities who considered the point in the past have held different opinions -

1. Section 120 of the L.R. Code, which contemplates the taking of alienated villages under the temporary management of Govt. officers lays down that it shall be lawful

NOTE—Contn. sheet.

Serial No.

for the Dy Commr. to conduct the revenue management thereof under the rules for the management of unalienated lands so far as such rules may be applicable -

2. In Govt order no. R 12325-33 - 2 R 247-03-8 & 10th June 1905, it is held that when such estates are attached for arrears of revenue & taken under Govt management under S. 166, the character of the village is temporarily altered from 'alienated' to 'unalienated', & that therefore no limitation as to time can be laid down as regards the recovery of the arrears of Kandayam due from the tenants to the Superior holders -

3. In another order it is held on the basis of the decision of the High Court, that when an Inam village is taken under Govt management, Govt only succeed to the rights & liabilities of the Inamdars, subject to the reservation in S. 166 cl. (1)

NOTE—Contn. sheet.

Serial No.

So far as public revenue is concerned, that they are not responsible for the recovery of the arrears accrued prior to the assumption of the management of the villages by Govt, and that if Govt undertake to recover the arrears, they can recover only that due for 6 years immediately preceding the date of assumption of management of the village by filing civil Suits & not by Summary process under the L.R.Code.

It may be noted in this connection that under S. 97. ~~Under~~ Superior holders are entitled to assistance from Dy Commrs for the recovery of rent or land revenue payable to them by inferior holders &c, under the same rules and in the same manner as prescribed in Chapt XI of the L.R.Code for the realization of land revenue by Govt, provided the application for assistance is made within 2 years from the end of the revenue or the year of tenancy in which the

(+ except S. 143 of the L.R.code.)

NOTE—Contn. sheet

Serial No.

Said rent or land revenue became payable - Under S. 103 of the Same Code, an Inamdar who is empowered under S. 99, can enforce payment of the revenue or rent of the current revenue year and of the revenue year next immediately preceding but not that of former years -

. So in the case of villages taken under Govt management, the Revenue officers cannot go beyond the said provisions. With regard to the recovery of arrears accrued prior to the date of assumption of management by Govt.

Cost of management.

"

G.O. No. 4538-68
I.R. 384-09-3
dt 8.2.1911

During the period of management of the Estates by Govt, a charge of 6% is required to be deducted from the gross collections in the estates concerned to defray the cost of management, and it is enjoined that no expenditure other than ordinary* should be incurred without the Sanction of Govt. The ordinary expenditure consists of payment of (1) revenue due to Govt on the estates, (2) remuneration due

* Para 428 (IV) of the Rev Manl

NOTE—Contn. sheet.

Serial No.

to village officers. (3) cost of maintenance of temples etc. if any; (4) cost of management, & (5) arrears of revenue or instalments of loans with interest, due to Govt. In some cases a small allowance is also given for the maintenance of the drainage concerned.

It may be noted that many of the alienated villages have very small income which will not be sufficient to meet even the ordinary expenditure if taken under Govt management. It is for this reason that the Govt dues in the case of many of the villages taken under Govt management 30 years ago have not yet been fully recovered, & it has not been found possible to restore the villages to the owners.

5. In some cases Govt have declined to ~~take over the management~~ take over the management of private estates, on the ground that it will throw unnecessary burdens on the Revenue officers.

Serial No.

26. The Madras Court of Wards Act provides for the property of the following proprietors being compulsorily taken under the Superintendence of the Court of Wards: — Section 4 of the Act — 9

(a) Minors —

(b) Women declared by the Local Govt to be incapable of managing their property

(c) Proprietors adjudged by a competent civil court to be of unsound mind and incapable of managing their property

(d) Proprietors declared by the Local Govt to be incapable of managing their property owing to any physical or mental defect or infirmity rendering them unfit to manage their property.

The declaration under the last clause is not to be made unless the Local Govt is satisfied that it is expedient in the public interests that the property should be managed by the Court.

Section 18. 27. The property of a proprietor may be taken under the Superintendence of the Court on his

Serial No.

application also, if the Local Govt is satisfied that it is expedient to do so in the public interests.

S. 35. 27. The Court has absolute power to deal with the property under its superintendence to the best advantage of the ward. The manager appointed by the Court has, (subject to the control of the Court,) power to collect the rents of land placed under his charge as well as all other money due to the ward and to grant receipts therefor and to grant or renew, under the orders of the Court, such leases as may in his opinion be necessary for the good management of the property —

S. 25. 28. The regulation of expenditure from the income of the estate is laid down in S. 32. The following are the first charges which should be met from the income, before it is utilized for other purposes.

(1) Charges necessary for the maintenance, residence, education, marriage and indispensable religious observances of the

NOTE—Contn. sheet

Serial No.

ward & his family.

(2) Charges necessary for the management & supervision of the property of the ward.

(3) Charges on account of Govt. revenue and of all cesses and other public demands due in respect of such property or any part of such property.

30. S. 63 of the Act provides also for the superintendence by the Court of religious endowments. When the hereditary trustee or manager of a temple, mosque, or other religious establishment becomes the ward of the Court.

These are the main provisions of the Act.

31. The Mysore Guardians and Wards Regulation V of 1911, provides for the protection of minors' properties. [illegible] is nothing preventing the Courts from appointing Guardians in respect of loans which belongs to minors. But there is no provision matters for consideration whether provision should be made for the protection of the properties belonging to women

What our rules lack is the power to Compulsorily assume management of

NOTE—Contn. sheet

Serial No.

who are incapable of managing their property, (2) persons of unsound mind and (3) persons who are physically incapacitated to manage their property.

Also our officers have not the protection afforded by Sec^n 48 of the Court of Wards Act.

32. In the case of others, the want of a Special agency to manage their properties has not so far been felt.

33. On a previous occasion the Rev. Commr., who was asked to suggest measures for improving the management of Inam villages by Govt agency, was of the opinion that a Special agency like the 'Court of Wards' was not needed here. All possible arrangements have been made for the good management of these villages. The accounts to be maintained in respect of these villages have been prescribed, and an annual report on their administration is submitted to Govt and reviewed.

† Para 431 of the Rev. Manl.

34. The only uncertainty which prevails in the minds of the Rev. officers is about the powers to be exercised by them in the management of these estates. If a definite ruling

NOTE—Contn. sheet

Serial No.

is laid down, the difficulties which sometimes arise in the course of such management can be removed.

3,5. If a special agency was to be established, the cost of management will have to be considerably raised, & it is doubtful if the owners of the estates will find it profitable to entrust their management to such agency, seeing that the estates are small ones yielding no appreciable income.

Rev Secy)

24/7/22

The above note is generally on lines indicated by me and gives the present facilities available for gentlemen like Mr Setlur.

3?) The Court of Wards Act is primarily intended for the benefit of minors, women who cannot manage their estates, ~~lunatics~~ adjudged "idiots" (men of unsound mind) and other "defectives" who in the opinion of Govt cannot look after their own properties. In the case of ordinary persons, their next relatives are presumed to have sufficient interest in their ~~affairs to look after their~~ affairs to look

NOTE—Contn. sheet

Serial No.

after their & their property. When instances of malpractice by near relatives come to light, the Court can appoint the male guardian of the person & property or both of such minors. Malpractices relating to the properties of the other classes of persons have to be dealt with under the ordinary Criminal law.

~~In this~~

2&4) But in the case of large estates, interference with the Common run of events is provided by the Court of Wards Act. This is an invasion of the Common law right and is not always tolerated

3&4) The Court of Wards Act confers large powers over the property on Collectors and it is not every landlord who would willingly give up the management to the Court & relegate himself to the background nor can Govt undertake responsibility in all cases of application by owners. Special grounds of public interest are necessary should be for the Coming before Govt Officers who can be saddled with the addl work incidental to managing the property of individuals.

5&6) The Settlement officer appears

NOTE—Contn. sheet.

Serial No.

to be labouring under a misapprehension in regard to the Court of Wards Act.

4(1) How coming to the need for the Act in Mysore:—

4(2) Its introduction ~~into~~ can be justified only on two grounds:-

(1) Public policy. (2) Popular demand

(1) Public policy does not need support of law.

~~Estates~~ All Inams, which it was the intention of Govt. should be perpetually in the grantee family are enfranchised & the Inam rules effectively protect them from alienation.

Other Inams are ~~unfit~~ alienable and Govt have no special interest in keeping them from one man or another

(2) There is no popular demand ~~about~~ in this matter. Reference is invited also to Para 6 of the Inam Com^n Report.

4(3) The members [illegible]

4(4) Enc^d fair personal, being a Rev^e Manual also.

Dewan

Flag Z

660
25/7

SECRETARIAT'S OFFICE
Date of receipt JUL 31 1922
Regd. No. 775

NOTE—Contn. sheet.

R. S. III-2]

General and Revenue Secretariat. | File No. | of 19

D 1346/A.

Serial No.

775

4 5) The main question is that the personnel of the Army Hdqrs & Gen Staff should be improved.

4 6) The absence of the Minister does not call for any special decision. The Financial position & the Army has only to be carefully watched with regard to Estimates.

4 7) Please asked for info about this in another Connection & called for full particulars.

4 8) May be put up along with them when rec'd

Y
3.8

Through P's d

REVENUE & JUDICIAL SECRETARIAT
9 AUG 1922
REVENUE BRANCH

4 9) The information in para 3 is probably from the Rev. Scott. Yes, please send this file also there.

Ag
8/8

To the Rev Scott)
Sent for personal 5 0) Put up the information
8.8.22. on para 3 dispatch (Delegs' Minutes)
Y 9/8/22

NOTE—Contn. sheet.

1846/R

R S. III-2]

General and Revenue Secretariat. | File No. | of 19 .

Serial No.

Sub:

The detailed information has been called for from the Dy. Comms of Dts, separately (Vide linked file). If approved this file will be resubmitted after the receipt of information from all the Dts of Dts.

9.8.22 (Rev Secy) 10/8/22

Linked to the main file dt 52-22-22 re the improvement of drain villages taken under Govt management.

19.11.22

NOTE—Contn. sheet.

G.R.S. III—3]

CB 126.

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Subd to L to L Secy

The Chief Secretary wants information as to how the question of a Board of Wards Registration stands at present.

726
21/7.

Hm
19/7/24

P.D. complete
18.7.
MS

There is no such question pending in the Protection Branch. Enquiries may perhaps be made in 18/7/24. the Revenue Branch

but Revenue Branch)

MS
18/7

The Secle question is pending in the Rev Dept

19.7.24

Secy
by
19/7/24

Chief Secy
with compts

1st Member)

MS
19/7.

MS
21/7/24

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on, this form.

F.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for parmanent record.]

Item must be considered in
upon his return
Coast. When he comes in
Committee 2/June up - He likely
for a week enclosed.

4/2
29/7

Encl
attempts
6
29/7

8/8
22.7
28/
29/7

V B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

REPLY.

(To be written on this margin.)

M.C.339.

Office of the Dewan of Mysore.

NOTE.

Dated 19th Novr. *1924*.

7) The question of the Code of Cattle trespass Regulations in Mysore, should be examined and a note put up after submission to the First Member.

To:-

The Local & Legislative Secy.
to Govt. with compliments.

8) Submd. with the papers in which the question has already been considered and ordered to be put up along with information re. inams under Govt. management.

This file was linked to that main file E/U. orders have been passed on the improvement of management of inams in G.O. No R 597-606 - L. R 52-22-1925 dated 25th July

D 2773/R.

General and Revenue Secretariat. | File No. | of 19 .

Serial No.

Regarding the question of adopting the Madras court of wards Act. Their reference is invited to the notes in paras 14 to 43 supra.

In para 9 of the G.O of 25th July 1924, the appointment of a special officer to look after the ~~management of~~ Inam villages under Govt. management is reserved for separate orders.

Submd

DC 19/11/24. (2) The file is to be submitted to the Board Member as per order of the Chairman. Their reference is invited to paras 14 to 42 & to para 43 wherein the Board Member noted that the matter may be dropped.

Dy Secy - 21/11

1st member - do

6219/24. 22/11/24. (3) Pursuit is proposed to be made in the Land Revenue Code for the management by Govt. of Inam Villages & the Rules & Instructions thereto.

This may be opened with the sanction of Govt.

Revn Secretary/Rev Bd 22/11 24/11 22/11

NOTE—Contn. Sheet

Serial No.

Subt.

The question of amendment of L.R. Code to provide for the management of Govt. Inam villages in cases where the owners happen to be unsound in mind or minor is being considered in the file relating to the Recommendations made by the Inam Comtn. Off. asked this file will be linked to the main file.

5.1.25 5.1.25

Prof. Branch

5-1-25

5/1

Subt. with reference to — paras 6 & 8 supra.

S.435. 7.1.25

6/1/25

(Amended) — 7/1

The question was fully discussed when the draft rules in the appendix to the Inam Commissioner was discussed and it has been decided that when the Inamdar happens to be a minor or a lunatic his Estate may be taken under Court management in cases of mismanagement. It was not thought right or advisable to take away Inam Village into Govt. management simply because the Inamdar who does not a minor or lunatic

5/1

8/1 8/1

Serial No.

64)

Subs. with reference to para 5 of Sec.

63) This may now be submitted to the Dewan

8c 9/1/25 LHSeely)
Dewan

28/10/1

8d 10/1

Seen. A draft amendment Bill may now be put up for consideration in Council.

12 JAN 1925

8d 12-1.

Subs. The question referred to paras

...OFFICE,
...N. 1925
4996

The file had been invited on the L.R.C amendment vide Regn XVII of 28 to 19A makes provision for the management of Minors estates. Since the Regn has been passed this may be closed in B

B 9/11/25

G.R.S. VI.—G/39.

SUBJECT .....

Diary No. of letter replied to .....

Section Legs

File No. .....

Serial No. .....

GENERAL AND REVENUE SECRETARIAT

( )

, the *191* .

Date of issue 10/8

Signed by M. Rm

No. G3298

To S. S. Setlur, Esq. B.A., Advocate High Court Bombay Sidelicuttee, Bangalore City

I am directed to acknowledge the receipt of — addressed on the Private Side
your communication noted in the margin and to state that the matter referred to therein will receive early attention.

I have etc.,

D. 10/8

for Chief *Secretary to Government.*

No. ... Mi ... date 23-7-38

Subject Desirability introducing the Madras Court of Wards Act in Mysore.

Rec'd 31/7